IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

Crl.MC.No. 1759 of 2007()

CRIME NO.345/2006 OF PUDUKKAD POLICE STATION

PETITIONER: ACCUSED NO.2

SHIBU DAVIS, S/O.DAVIS,
CHURANATTUSSERIYIL, CHALAKUDY.

BY ADV. DR.K.P.KYLASANATHA PILLAY
SMT.SREEDEVI KYLASANATH

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA, REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
PUTHUKAD POLICE STATION.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.1759 of 2007

Dated this the 6th day of July 2007

O R D E R

The petitioner has come to this court with a prayer to quash Annexure A1 F.I.R, that is Crime No.345/06 of Puthukad police station. He received information from his superiors that people involved in the commission of theft of vehicles are moving through his jurisdiction in a vehicle. He intercepted the vehicle. He apprehended three accused persons who were there. The petitioner is the second accused in that crime. The crux of the allegations in the F.I.R is that the officer suspects that the petitioner and the others in the car were involved in commission of the offence of theft of vehicles. Certain incriminating articles were also recovered from the vehicle. Those articles, according to the police, suggest that the occupants in the car were engaging in the activity of tampering with the chassis and engine numbers of the cars and altering such numbers.

2. Be that as it may, the petitioner and the others were arrested under Section 41(1)(d) and seizure was effected under

Section 102 Cr.P.C. Investigation commenced, in these circumstances.

3. In the course of the investigation, the police have come to realise that a racket is working, which allegedly obtains damaged vehicles from sources like the insurance companies. Making use of the registration certificate of such vehicles, stolen vehicles are made use of and the numbers are tampered with, to make it appear that the stolen vehicles are really vehicles which have been obtained after total damage. Investigation is in progress. Final report has not been filed.

4. The petitioner has come to this court with the contention that he was not arrested in the circumstances alleged in the F.I.R. According to the petitioner, the F.I.R has been registered vexatiously with the intention of harassing the petitioner. According to the petitioner, even though the crime was registered as early as on 30/7/2006, the police have not been able to identify the owners of the vehicles which have been stolen. In these circumstances, it is submitted that the F.I.R may be quashed.

5. The powers under Section 482 Cr.P.C are indeed wide and sweeping. They can be invoked in an appropriate case to quash an F.I.R also undoubtedly. But the court invoking such powers must be convinced that in the interests of justice, such invocation is necessary. I shall scrupulously avoid any detailed discussion on merits about the acceptability of the allegations or the credibility of the data collected. Suffice it to say that there are clinching indications to link the accused persons with certain vehicles, the numbers in which are seen tampered with. Whether such vehicles, the numbers of which are tampered are really vehicles obtained as totally damaged vehicles after repair or whether stolen vehicles have been made use of for fraudulent purpose will certainly have to be decided only after thorough and complete investigation. At this point of time, when the investigation is not completed, I find absolutely no reason to invoke the powers under Section 482 Cr.P.C and quash the F.I.R registered. The prayer is certainly not sustainable legally.

6. The learned counsel for the petitioner submits that some of the persons from whom such vehicles have been seized have come to the court and such vehicles have been released to

such owners. This, the counsel contends, knocks the bottom out of the theory that such vehicles were stolen vehicles.

7. I find absolutely no merit in this contention. Instead of directing the retention of such vehicles in the custody of the court, exposing them to sun and rain, it is true that in some cases, the vehicles have been directed to be released to persons who claim to be bona fide purchasers of the vehicle, subject to appropriate and very strict conditions. The mere fact that courts have attempted to avoid unnecessary hardship and loss to the alleged bona fide purchasers is no reason to come to the conclusion that the investigation has lost its relevance and purpose. That contention raised cannot also find favour with this court. The prayer in this petition is in these circumstances rejected.

8. This Criminal Miscellaneous Case is dismissed.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007